IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1954 OF 2007

Nilesh D. Pardeshi ....Petitioner
V/s.
State of Maharashtra & Ors. ....Respondents

Mr.R.K. Mendadkar for the Petitioner.
Mr.P.P. Kakade, AGP for Respondent Nos.1 to 3.

CORAM : F.I. REBELLO &
R.M. SAVANT, JJ.
DATED : 22ND MARCH, 2007.

ORAL ORDER : (PER R.M. SAVANT, J.)

1. Rule. Rule with consent of the parties made returnable forthwith and heard.

2. By this Petition filed under Article 226 of the Constitution of India, the Petitioner impugns the order dated 16.3.2007 passed by the Respondent No.2 - Committee. By the said order, the Petitioner's caste certificate as belonging to Rajput Bhamta which is a Vimukta Jati, has been invalidated.

3. Such of the facts which are necessary to be cited are stated thus :-

. The Petitioner was granted caste certificate as belonging to Rajput Bhamta on 24.4.2000 by the Sub Divisional Officer, Pachora Sub Division, District Jalgaon. The Petitioner's caste certificate was forwarded by the Junior College in which the Petitioner was studying to Respondent No.2 - Committee for verification. Along with the said certificate, the Petitioner had submitted various documents which included the caste validity certificates granted to his blood relatives from the paternal side. Some of the said documents are mentioned hereinbelow :-

i). Certificate of validity dated 1.8.2003 issued by the competent scrutiny committee in favour of Vishal Kailas Pardeshi ;

i). Certificate of validity dated 20.11.1993 issued in favour of Jadhavsingh Shamsing Rajput ;

i). Certificate of validity dated 16.6.2001 issued in favour of Sandeep B. Pardeshi ;

i). Certificate of validity dated 5.2.2006 issued in favour of Rajendra Navalsingh Pardeshi ;

4. It appears that the Petitioner had appeared for MH-CET examination and on the basis of the marks obtained by him, the Petitioner had secured the admission in Respondent No.4 college subject to production of the caste validity certificate by the Petitioner within 12 weeks from the date of admission. Since the Petitioner could not produce the caste validity certificate within the stipulated time, as per rules, the Petitioner on the apprehension that his admission would be cancelled, filed Writ Petition No.7494 of 2006, in which the Petition the Division Bench of this Court at Aurangabad directed the Scrutiny Committee to verify the Petitioner's caste claim within a period of six months. It appears that one of the students belonging to the Petitioner's caste, had approached the Apex Court, by way of an SLP on the ground that the Petitioner had been granted admission without the caste validity certificate. In the said S.L.P. filed by the complainant, directions came to be issued that the Petitioner should submit the caste validity certificate within three weeks, failing which the authorities were directed to cancel the Petitioner's admission. In view of the directions of the Apex Court, the Petitioner approached Respondent No.2 to decide the Petitioner's caste claim

as expeditiously as possible. The Apex Court had also extended the time for verification of the caste claim of the Petitioner by two weeks which period expired on 21.3.2007. The Petitioner had filed one more Petition in this Hon'ble Court before the Aurangabad Bench, which came to be disposed of on the statement made by the learned A.G.P. that the verification of the caste certificate of the Petitioner would be decided on or before 15.3.2007.

5. In terms of the statement made in the said Writ petition, filed by the Petitioner, Respondent No.2 - Committee decided the caste claim of the Petitioner and vide its order dated 16.3.2007 invalidated the caste certificate issued to the Petitioner as belonging to Rajput Bhamta, Vimukta Jati. It is this order dated 16.3.2007 which is impugned in the present Petition.

6. We have heard the learned counsel for the parties. Principal ground on which the said order dated 16.3.2007 is sought to be assailed by the learned counsel for the Petitioners is that Respondent No.2 - Committee has not considered the validity certificates issued in favour of the Petitioner's near relatives. According to the learned counsel for the

Petitioner, there are as many as four certificates issued in favour of the said relations which have been reproduced by us in the earlier part of this order. It was also submitted by the learned counsel for the Petitioner that the Committee has also not considered the report of the Vigilance Cell in its proper perspective. According to the learned counsel for the Petitioner, the Vigilance Officer has in term observed that the Petitioner belongs to Rajput Bhamta, Vimukta Jati, as claimed by him. On the other hand, it is contended by the learned AGP that the order does not require any interference as the same has been passed on the basis of record which was before the Scrutiny Committee.

7. We have perused the impugned order dated 16.3.2007. It is pertinent to note that inspite of the Petitioner producing the said four documents, which are caste validity certificates issued in favour of the near relations of the Petitioner, the Committee has observed that no specific old proof of caste of Rajput Bhamta has been submitted. The Petitioner might have not produced any old proof but that cannot be the sole test for determining the caste of tribe test of the Petitioner. In the instant case, the four validity certificates produced by the Petitioner of

his near relations have not even been adverted to by the said Committee and therefore, have not been considered by the said Committee in deciding the tribe claim of the Petitioner, we find that the report of the Vigilance Cell has also not been considered by the Scrutiny Committee - Respondent No.2. The Committee has also proceeded on the basis that the Petitioner has not produced any old proof of the caste as belonging to Rajput Bhamta. That in our view is not a correct approach while deciding the caste claim of the Petitioner.

8. In that view of the matter, the impugned order dated 16.3.2007 would have to be set aside and the matter regarding verification of the tribe claim of the Petitioner as belonging to Rajput Bhamta, Vimukta Jati would have to be relegated back to Respondent No.2 - Committee to be considered afresh. The Committee while deciding the said matter afresh, would take into consideration the caste validity certificates issued in favour of the Petitioner’s near relations as well as the report of the Vigilance Cell. The Petitioner to appear before the said Committee on 16.4.2007 and the Committee to decide the Petitioner’s caste claim within three months thereafter.

. The Committee would therefore decide the issue regarding the Petitioner’s tribe claim afresh without being influences by any of the observations made in this order.

9. Rule is accordingly made absolute to the aforesaid extent with no order as to costs.

(R.M. SAVANT, J.) (F.I. REBELLO, J.)